

VOL. XXXV.

HONOLULU, HAWAII TERRITORY, TUESDAY, MARCH 4, 1902.

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NO HOPE
IN COURTReceiver Would
Sell Kona at
Auction.ATTORNEYS STAVE
OFF PROCEEDINGLaborers Threaten to Destroy
Plantation—No Hope Extended
to Them by Wundenberg.

The Kona Sugar Company plantation
appears to be doomed unless it is taken
out of the courts. Receiver Wunden-
berg yesterday applied to Judge
Humphreys for an order to sell the
property at public auction, but upon
the urgent requests of the parties most
interested in the plantation, a contin-
uance was granted for a short time.
In the meantime the laborers threaten
to destroy the property unless the
steamer leaving for the place today
brings some promise of relief. The
manager reports conditions there most
serious, with the Japanese on the point
of insurrection, and he begs that some
definite word be sent on today's
steamer, or he will be powerless to
avert the impending disaster. But
Receiver Wundenberg gives no hope.

Receiver Wundenberg presented his
application for an order to sell the
property yesterday morning, but it
was not until nearly noon that the in-
terested parties received notification
of the motion, and they were up in
arms when Judge Humphreys set it for
immediate hearing, at 2 o'clock in the
afternoon. The motion was in the fol-
lowing form:

Now comes F. W. Wundenberg, the
receiver herein, by his attorneys, J.
Alfred Magoon and Thomas I. Dillon,
and respectfully shows to this court:

1. That on the 28th day of Febru-
ary, A. D. 1902, he filed in said court
his report herein, a copy of which is
hereto attached and made a part
hereof, and to which reference is here-
by made.

2. That C. Brewer & Co. had led your
receiver to believe they would in all
probability advance the funds neces-
sary to carry on the business of the
said Kona Sugar Co., Ltd., and to
prosecute the work of the said planta-
tion, and, among other things, com-
plete the mill and take off the crop of
cane now growing on said lands, but
that said C. Brewer & Co. have refus-
ed to advance said funds, and your
receiver has made every effort to ob-
tain the funds necessary therefor from
other persons without success, and
your receiver believes that it is im-
possible to get the funds necessary for
the aforesaid purpose.

3. That your receiver is fully satis-
fied that it is necessary for the pro-
tection and preservation of the property
of the said Kona Sugar Co., Ltd., and
the said plantation, that immediate
steps be taken to sell and dispose of
the said property; that delay in com-
pleting the mill will entail a loss of
the present crop of about 3,000 tons of
sugar, which will irreparably cripple
and injure the said Kona Sugar Co.,
Ltd.

4. That it would be to the best in-
terest of all parties to the litigation
herein if the entire property and es-
tate of the said Kona Sugar Co., Ltd.,
be sold at public auction.

Wherefore, your receiver prays for
an order of this honorable court in-
structing your receiver as to what he
shall do in the premises.

F. WUNDENBERG,
Receiver Kona Sugar Co., Ltd.

ATTORNEYS OBJECT.

F. W. Hankey, appearing for the
plaintiffs, M. W. McChesney & Sons,
arose immediately and objected to a
hearing of the motion at that time. "I
assume that you have read the peti-
tion," said he, addressing the court.
"I object to its consideration at this
time on its merits; we have barely re-
ceived notice of it, and here it is set
for hearing already. I saw Mr. Brown,
and he had not received a copy as yet,
and other parties are in the same po-
sition. An order of this kind is of se-
rious gravity, and there is nothing in
the petition to show that it is needed
to satisfy any of the parties to the
action. I represent the plaintiff, and
have the concurrence of all parties, in
asking that some day subsequent to
this be set for the hearing."

Attorney Dillon, appearing for Mr.
Wundenberg, stated that the reason
for the filing of the motion at this
time, was the fact that the steamer

left today (Tuesday), and from a let-
ter received by the receiver, from
Manager Cowan, Saturday evening,
he thought that haste was necessary
in order to subserve the interests of
all parties. He read this letter to the
court, as follows:

Honolulu, Feb. 28, 1902.
F. Wundenberg, Receiver, Kona Sugar
Co., Ltd.

Dear Sir—The supplies you furnished
from Hackfeld & Co. will be all gone
by the time the Mauna Loa returns
here, March 5th. The mechanics, as
well as all the labor, are very anxious
about the result of your motion, and
wish me to give them an answer at
once of how they stand, and if their
back pay is going to be paid to them.
I can't say what will be the result if
their money is not forthcoming soon.
They are really very serious about it.
I assure you, and mean to have their
rights. I hear of course all sorts of
rumors of what is going to be done.
The Japs are holding meetings. I sup-
pose they are discussing the situation;
you see numbers of them now travel-
ing the government road back and
forth. They are no doubt making
their plans. I am more impressed
than ever that the men will not allow
a stick of cane to be cut until they are
settled with in some way. Now sup-
pose you cannot get the necessary coin
to carry on the plantation, and you send
up word to shut down everything,
what are those men to do? They have
no money and no credit, and cannot
get away. The mechanics are in the
same fix. I will therefore ask you to
send up at least \$2,000, so that I can
support the men until they can get
away and pay them a few dollars for
immediate use. Ever since you left,
there has been a continuous clamoring
of what is going to be done. I have
to give every man a statement today
of what is due him. They came to me
in a body and demanded this. I have
tried to get some information out of
the Japs, but cannot learn anything.
I think their Consul should be asked
to communicate with the Japs here,
and advise them to work harmoniously
with yourself. And trusting that something
definite will be done by March 5th, I
remain, yours truly,

JAMES COWAN.

Mr. Hankey, replying, said that he
had taken the liberty of inquiring of
the receiver what word he had intend-
ed to send, and Mr. Wundenberg had
replied that it would be that the plan-
tation was to be shut down. "If any-
thing is to be done," continued Mr.
Hankey, "it should be the sending of
some money to work harmoniously with
the situation, and then give the parties
here a chance to talk over the matter.
There is nothing in this petition which
would relieve the situation."

Mr. Magoon, replying for Receiver
Wundenberg said: "We have exhaust-
ed every means in Honolulu of ob-
taining financial aid, and it is an utter
impossibility, as we have visited every
bank and every person having money.
As the report of the receiver shows,
he visited the plantation with a
representative of Brewer & Co., and
he reported unfavorably, which makes
it impossible to borrow funds. This
property has been hanging by the eye-
lids, as it were, for months, and it is
a mystery how a big corporation like
this managed to run as long as it has
been running without paying its
debts. The laborers are now in a state
of insurrection, and are making threats
against the property. As this motion
stands now the simple statement of
these parties that they want to get to-
gether is insufficient. They have had
weeks to prepare for this action, and
should have been ready to meet it. A
very grave responsibility rests on the
receiver, and if these men set fire to
the cane, as they threaten to do, or
commit other depredations, it would be
laid at his door. The only natural so-
lution is to dispose of the property at
the earliest possible moment to some
one who is interested, and would con-
duct the property so as to satisfy all
parties. Mr. Wundenberg has been in
constant communication with all parties
at interest, and they have been
kept advised as to what course was
to be taken, and there is no necessity
for delay, and delay will not help the
plantation."

Mr. Hatch, appearing for the defend-
ants, said that he joined with Mr.
Hankey in a motion for a continuance.
He characterized the motion as a most
extraordinary proceeding on the part
of the receiver, who he said was ap-
pointed to conserve and protect the
property, and that it could not be sold
unless it was to meet a money judg-
ment. "The receiver was given an op-
portunity to borrow money to keep the
plantation together," said Mr. Hatch, "and
now to bring the parties into court on
such short notice and ask a sale of
the property without giving them a
chance to consider it is most unjus-
tified. The receiver is giving notice
to say the least, extraordinary. It is
certain that a sale could not be made
today, even upon an order of the court
and with the consent of all parties."

CONTINUANCE IS GRANTED.

Judge Humphreys granted the motion
for a continuance, stating that the re-
ceiver had been appointed to conserve
the property. "This is something of
the nature of an assumption," said
the court; "the plaintiff creditors claim
large sums by reason of a contract
with the Kona Sugar Company. It
seems to me an order of sale without
giving the time to hear the motion on
its merits, is unwarranted and un-
necessary, and would be something like
issuing a writ of execution before the
judgment is granted. The petition, it
is true, shows that the employees are
insurrectionary, not having been paid
for months, but the nature of their
tempestuous and turbulent disposition
is not clear. I think the plaintiff and
the defendants in this case are those
most vitally interested in the preserva-
tion of the property, and they have be-
spoken an unwillingness to have the
motion heard at this time. I doubt not
but what the receiver from his inves-
tigation, is convinced that the best
course to pursue is the one recom-
mended by him, but yet to grant it
summarily upon six hours' notice, and
in face of the opposition, would be an
unauthorized and arbitrary course to
pursue. The receiver is the mere judi-
cial caretaker of the plantation. The
motion for a continuance will be al-
lowed at this time."

Receiver Wundenberg, after the or-
der of the court had been made, stated
that in his opinion the action would be
disastrous to the plantation, as some-
thing definite was immediately neces-
sary. "I shall simply write Manager
Cowan tomorrow of the proceedings in
court," said he, "though the Japs
cannot do much but inflame the labor-
ers, who are apparently about to dam-
age the plantation property. The
whole question appears to hinge upon
the attitude of these Japanese labor-
ers, who cannot understand the situa-

ONE OF THE KONA VICTIMS
PAYS RESPECTS TO HUMPHREYSHe Says With a Man of the Branded Judge's
Character on the Bench Public
Safety is at Stake.

Editor Advertiser—Noticing in the
official report to the court, that the
receiver of the Kona Sugar Company,
so far, has not been successful in his
attempt to raise the necessary funds
for carrying on the plantation, or
even enough to take off the maturing
crop, I fear the plantation will have
to be sold at auction to satisfy the
creditors. If so, it will make a few
rich at the expense of many, and the
total ruin of a large number of share-
holders and business people at Kona,
who have invested in good faith all
they possess in the world in this cor-
poration, not as speculators, but as
investors, not dreaming of such a sad
ending and blighting of all their hopes
and prospects for prosperity.

Of course the creditors must and
shall be satisfied; never mind the poor
investors, they should have used better
judgment. If they invested in the
wrong concern, let them bear the con-
sequences; that is no business of the
court, who is no loser. Such, evidently,
must have been the reasoning of our
First Circuit Judge, when he appointed
Mr. Wundenberg receiver of the Kona
Sugar Company, a man who for finan-
cial reasons, was not acceptable to any
one interested, though personally, Mr.
Wundenberg is well thought of.

In a unanimous petition, the credi-
tors and shareholders of the Kona Su-
gar Company had acquainted the court
with their desire, and asked it for the
appointment of Mr. S. M. Damon as
receiver, he being the only party will-
ing and in a position to handle the
affairs of the company to the satisfac-
tion of all concerned, however, all this
being admitted, the court held that
that gentleman was altogether out of
question; firstly, because he was a
creditor, and again, because he would
not be able to give the affairs of the
company the necessary attention, for
want of time.

That the appointment of Mr. Damon
as receiver meant the saving of the
plantation, and a large number of its
shareholders, from total ruin, was not
thought worth the consideration of the
court.

Had the petitioners anticipated such
an outcome they would never have
asked for the appointment of a re-
ceiver.

I claim to be a good, law abiding
American citizen, and as such, have,
and always have had the highest re-
spect for our law courts, as long as
they are conscious of their duties and
discharge them with impartial justice
and protection to all alike; but when they
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when they shrink and expand at will,
whenever their whims, humors and

caprices, influence their decisions, I
claim to be a good, law abiding
American citizen, and as such, have,
and always have had the highest re-
spect for our law courts, as long as
they are conscious of their duties and
discharge them with impartial justice
and protection to all alike; but when they
cease to regard their duties and the
people's interest and interpret the laws
to suit themselves and their relatives;
when they shrink and expand at will,
whenever their whims, humors and

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spect for our law courts, as long as